

REMARKS

The September 29, 2008 Office Action rejects Claims 1-52 under 35 U.S.C. § 103(a). Lines 2 and 3 of paragraph #4 (page 2) states that Claims 1-52 are rejected as being unpatentable over U.S. Patent No. 6,944,584 to Tenney, et al. ("Tenney") in view of U.S. Patent No. 6,463,460 to Simonoff ("Simonoff"). Applicants request reconsideration of the rejections in view of the following comments.

The invention relates to the cooperative programming of a simulation program of a computer application to be developed. Citations are provided to illustrate specific examples and embodiments of the recited claim language, and are not intended to limit the claims. For example, Independent Claim 1 is directed to a method of cooperatively programming a simulation program of a computer application to be developed. The method includes communicating with a plurality of user computers (see, *e.g.*, 80, Figure 2, paragraph [0097]). These user computers (see, *e.g.*, 80) display (see, *e.g.*, 64, Figure 2, [0099]) an executable simulation model (see, *e.g.*, 78, 86, Figure 2, [0097], [0101]) of the computer application to be developed. Simultaneously, the user computers (see, *e.g.*, 80) can modify (see, *e.g.*, 62, 82, Figures 1-2, [0029], [0100]) the executable simulation model (see, *e.g.*, 78, 86, Figure 2, [0097], [0101]), thereby revising (see, *e.g.*, 108, 112, Figure 3 [0112]-[0114]) the simulation program of the computer application to be developed. A modification (see, *e.g.*, 82, Figure 2, [0100]) to the executable simulation model (see, *e.g.*, 86, Figure 2, [0101]) is received (see, *e.g.*, 106, 110, 118, 108, 120, 112, Figure 3, [0111]-[0115]) from a first user computer (see, *e.g.*, 80) of the user computers (see, *e.g.*, 80). Updates (see, *e.g.*, 122, 114, Figure 3, [0114]) are provided to the user computers (see, *e.g.*, 80) so that the user computers (see, *e.g.*, 80) display (see, *e.g.*, 64, Figure 2, [0099]) the revised executable simulation model (see, *e.g.*, 78, 86, Figure 2, [0097], [0101]).

Discussion of Rejection of Claims 1, 14, 27, and 40 under 35 U.S.C. § 103(a)

The Office Action rejects Claims 1, 14, 27, and 40 under 35 U.S.C. § 103(a) as unpatentable over Tenney in view of Simonoff, and recites language from U.S. Patent No. 5,206,934 to Naef ("Naef"), which is incorporated by reference in Simonoff.

In particular, the Office Action states that the combination of Figure 1, items 121, 123, and 125, Col. 2, lines 35-45, and Col. 7, lines 35-50 of Tenney and Col. 2, lines 44-57 of Naef/Simonoff teach the invention as claimed by Claims 1, 14, 27 and 40. Applicants respectfully traverse. Applicants respectfully submit that the Office Action is either mischaracterizing the teachings of Tenney or is not reasonably construing the claim language "simulation."

The Office Action relies on Tenney, at Fig. 1, elements 121, 123, and 125, associated text, and Col. 2, lines 35-45, for teaching "communicating with a plurality of user computers, where the user computers display an executable simulation model of the simulation program of the computer application to be developed." Applicants disagree with the foregoing characterization of Tenney. There is no "executable simulation model of the simulation program of the computer application to be developed" taught or suggested by Tenney or by Naef/Simonoff.

Rather, Tenney teaches developing deployable software with a simulation of hardware. It is Tenney's hardware that is simulated and not Tenney's software. Tenney teaches "simulated testing of the robotic software before the robotic hardware has been fully developed," (Col. 1, lines 36-38). Tenney states that "the combined client/server system may be fully tested offline in pure simulation mode before being connected to the actual system hardware," (Col. 8, lines 6-8). Tenney states that "[t]he software development track 843, however, begins by *simulating hardware devices*, and gradually integrating the application hardware as it becomes available," (Col. 10, lines 43-45) (emphasis added). Tenney describes the benefit as that "[a]fter the device control program has been fully tested in simulation, *the same program* can be used to control actual devices," (Col. 2, lines 38-40) (emphasis added). For example, the simulation "warns developers of potential collisions that will occur before control software is used with the actual hardware devices during development and simulation of new robotic workcells," (Col. 9, lines 46-46).

Thus, with respect to "communicating with a plurality of user computers, where the user computers display an executable simulation model of the simulation program of the computer application to be developed," the Office Action is either mischaracterizing the teachings of Tenney or is not reasonably construing the claim language "simulation."

While Applicants acknowledge that the PTO is permitted to interpret claim language broadly, such interpretation must nonetheless still be reasonable. “The Patent and Trademark Office (“PTO”) determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction ‘in light of the specification as it would be interpreted by one of ordinary skill in the art.’” *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) (citing *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004)). See M.P.E.P. 2111. See also, *In re Buszard*, 504 F.3d 1364 (Fed. Cir. 2007). Applicants respectfully submit that ignoring the limitation “simulation,” is unreasonable.

Since Tenney describes that “[a]fter the device control program has been fully tested in simulation, *the same program* can be used to control actual devices,” (Col. 2, lines 38-40) (emphasis added), Tenney’s program could not be a “simulation program,” and therefore does not teach or suggest programming a simulation program. Further, neither Naef nor Simonoff teach or suggest programming a simulation program, either. Naef only discusses “simulation” in the context of simulating a physical conference with an electronic conference. Simonoff only discusses “simulation” in a background discussion of Naef, and in the same context as Naef. Thus the combination of Tenney and Naef/Simonoff does not teach or suggest “communicating with a plurality of user computers, where the user computers display an executable simulation model of the simulation program of the computer application to be developed,” as recited in Claim 1; “a first component configured to communicate with a plurality of user computers, where the user computers display an executable simulation model of the simulation program of the computer application to be developed,” as recited in Claim 14; “a means for communicating with a plurality of user computers, where the user computers display an executable simulation model of the simulation program of the computer application to be developed,” as recited in Claim 27; or “instructions configured to communicate with a plurality of user computers, where the user computers display an executable simulation model of the simulation program of the computer application to be developed” as recited in Claim 40. Accordingly, the combination of Tenney and Naef/Simonoff does not teach or suggest all the claim limitations.

In order “[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” *In re Royka*, 490 F.2d 981, 180 USPQ

580 (CCPA 1974). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” See M.P.E.P. §2143.03.

Accordingly, Applicants request the Examiner to withdraw the rejections of Claims 1, 14, 27, and 40, and to allow Claims 1, 14, 27, and 40.

Discussion of Rejection of Dependent Claims 2-13, 15-26, 28-39, and 41-52

Dependent Claims 2-13, 15-26, 28-39, and 41-52 depend from and further define Claims 1, 14, 27, and 40, respectively. The dependent claims recite numerous additional distinctions over the cited references.

For example, dependent Claim 8 describes “wherein the executable model includes requirements.” The Examiner states that Tenney at Col. 10, lines 50-55 teaches requirements. Applicants respectfully disagree. Applicants refer to paragraph [0031] of the specification, which states that “[a]s used herein the term requirement(s) refers to a statement or portion of a statement regarding the desired or necessary behavior of a prospective or subject computer implemented software application or a set of proposed applications.”

Tenney does not teach or suggest such requirements. Rather, Tenney states “[i]f the desired component is in the library 817 of components known to the server, the component can be immediately added to an object tree 821 which stores the required components.” Thus, Applicants respectfully submit that these “required components” are the “simulated hardware components [that] are added into the system 815,” (Col. 10, lines 48-49), rather than requirements as described by Applicants.

The term “requirement” does not even appear in Naef. The term “requirement” appears in Simonoff only in the general context of “collaboration requirements” (Col. 8, line 30) and “system requirements” (Col. 13, lines 6-7). Thus, the combination of Tenney and Naef/Simonoff does not teach or suggest including requirements in the executable model.

In addition, Applicants respectfully submit that the rejections to dependent Claims 2-13, 15-26, 28-39, and 41-52 are moot for at least the reasons described for Claims 1, 14, 27, and 40, respectively, and Applicants accordingly request allowance of Claims 2-13, 15-26, 28-39, and 41-52.

Application No.: 10/763,012
Filing Date: January 22, 2004

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Co-Pending Applications of Assignee

Applicant wishes to draw the Examiner's attention to the following co-pending applications of the present application's assignee.

Docket No.	Serial No.	Title	Filed
IRI.001NP	10/484,541	SYSTEM AND PROCESS FOR GATHERING, RECORDING AND VALIDATING REQUIREMENTS FOR COMPUTER APPLICATIONS	2004-01-22
IRI.001C3C1	11/671,331	SYSTEMS AND METHODS FOR DEFINING A SIMULATED INTERACTIVE WEB PAGE	2007-02-05

SUMMARY

In view of the foregoing amendments and remarks, Applicants respectfully request the Examiner to withdraw the rejections of the claims under 35 U.S.C. § 103(a). Applicants further request the Examiner to allow Claims 1-52 and to pass the present application to the issue process.

If there is any further impediment to the prompt allowance of the present application, Applicants request the Examiner to call the undersigned attorney of record at 310-407-3466 or at the telephone number listed below to resolve any such impediment.


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Filing Date: January 22, 2004

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: January 29, 2009

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